

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

II. Discussion

A. Standing Practice Order Violations

The court's Standing Practice Order informs *pro se* litigants of their responsibility to respond to defense motions and of the consequences which would flow from a failure to comply with the briefing schedule. It is also explicitly informs a *pro se* litigant to keep the court informed of their current address.

On April 4, 2012, a scheduling order (doc. 20) mailed to Plaintiff was returned to the court as undeliverable.¹ A search of the Federal Bureau of Prisons and state prison records reveal no prisoner named Marcos Olguin is housed in these prison systems.² No response to the motion to dismiss has been filed.

The magistrate judge very thoroughly addressed granting the motion to dismiss pursuant to Middle District Local Rules 83.18 and 7.6 and pursuant to the standards set forth in *Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863 (3d Cir. 1984). After consideration of the magistrate judge's reasoning, this court will adopt the report and recommendation as to this recommendation.

B. Dismissal on the Merits

The magistrate judge very thoroughly examined what constitutes the legal sufficiency of a complaint and found the complaint lacking. The magistrate judge found that Plaintiff failed to establish that Dr. Reynolds' medical treatment arose to a "deliberate indifference" to a serious medical need. He found that, at most, there was a difference of opinion as to what medical treatment plan was appropriate.

¹The copies of the Report and Recommendation (doc. 22) and the magistrate judge's order of April 27, 2012 (doc. 33) that were mailed to Plaintiff were likewise returned marked "Undeliverable."

²The Federal Bureau of Prisons' records reflect that Olguin was released from BOP custody on March 7, 2012.

This fails to meet the deliberate indifference standard. (*See* doc. 22 at p. 22.) This court agrees.

III. Conclusion

For the reasons stated above, the report and recommendation of Magistrate Judge Carlson will be granted. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: May 4, 2012.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARCOS A. OLGUIN,	:	CIVIL NO. 1:12-CV-0003
	:	
Plaintiff	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Carlson)
	:	
BURGERHOFF, Paramedic Nurse;	:	
KABONICK, Paramedic;	:	
DR. REYNOLDS;	:	
L. VEGA, Surgical Assistant;	:	
C. SCHAFFER, Surgical Assistant;	:	
and J. McDONALD, Institutional	:	
Correctional Counselor,	:	
	:	
Defendants	:	